IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

WRIT PETITION NO. 2415 OF 2004

M/s. Bhor Industries Ltd. Petitioners
vs.
1. The Union of India & ors. Respondents

Mr. V. Shreedharan i/b. M/s.DSK Legal for the petitioners.

Mr. M.I. Sethna with Mr.H.V. Mehta for the respondents.

CORAM : R. M. LODHA &
J. P. DEVADHAR,JJ.

DATED : 7th September 2004

P.C.

Rule.

2. Returnable forthwith.

3. Advocate on record for the respondents waives service.

4. It is not in dispute before us that pursuant to the order of the Customs Excise & Gold (Control) Appellate Tribunal dated 6th December 2000, the Assistant Commissioner has not communicated to the petitioners the duty required to be paid by it consequential upon the order of the Tribunal. If that be so, we find that there was no justification for the Deputy Commissioner of Central Excise, Borivali Division, Mumbai-5 to write

the communication to the Branch Manager, State Bank of India, Band Street, Fort, Mumbai to issue demand draft in the sum of Rs.1,42,91,086/-.

5. The impugned communication cannot be sustained.

6. Rule is, accordingly, disposed of by the following order:

(1) The impugned communication dated 12th August 2004 is quashed and set aside.

(2) As and when the Assistant Commissioner communicates to the petitioners the duty required to be paid consequential upon the order of the Tribunal and if within the statutory period, the petitioners do not pay the duty so demanded, it will be open to the concerned revenue authorities to recover the said amount from the petitioners in accordance with law subject to the decision in writ petition no.2647/2002.

(R.M. LODHA, J.)

(J.P. DEVADHAR,J.)